National Labor Relations Board Weekly Summary



NLRB Cases

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Hartford, CT Regional Office

(R-2696): NLRB Files Petition for Rehearing of <u>Laurel Baye Healthcare</u>

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Community Medical Center (4-CA-34888, et al.; 354 NLRB No. 26) Toms River, NJ May 29, 2009. The Board adopted the administrative law judge's findings that the Respondent violated Section 8(a)(1) of the Act by: (1) directing union representatives to retrieve their vehicles from its parking garage and to leave the parking garage, and (2) promising employees improved terms and conditions of employment through a "shared governance" concept in order to discourage employees from selecting the Union as their collective-bargaining representative. The Board reversed, in the absence of pertinent precedent, the judge's finding that the Respondent violated Section 8(a)(1) by hiring a former union organizer and assigning him to campaign against the Union without providing assurances to employees that information received from the former union organizer concerning who supported the Union would not be used against them. The Board reasoned that extant Board precedent does not establish that the Respondent had an affirmative duty to provide assurances to its employees regarding the hiring of a former union organizer. [HTML] [PDF]

Based on the two Section 8(a)(1) violations found, the Board further adopted the judge's recommendation to set aside the election results and finds it unnecessary to pass on the judge's findings regarding the Union's Objections 1 through 5.

(Chairman Liebman and Member Schaumber participated.)

Charges filed by New York State Nurses Assn.; complaint alleged violations of Section 8(a)(1). Hearing at Philadelphia, Aug. 13-15, Oct. 1-4, 22-25, Nov. 13-15, and Dec. 3, 2007. Adm. Law Judge Bruce D. Rosenstein issued his decision March 14, 2008.

International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers, Local 378 (32-CD-167, et al.; 354 NLRB No. 19) Oakland, CA, May 21, 2009. Relying on factors such as existence of collective-bargaining agreements, employer preference, employer past practice, industry practice, workers' relative skills, and economy and efficiency of operations, the Board determined that employees of American Bridge/Flour Enterprises, Inc., a Joint Venture, represented by Iron Workers, Local 378, are entitled to perform the line handling, signaling, and rigging, associated with offloading of ships and vessels arriving at Pier 7 in Oakland, CA, with structural steel supports and other construction materials for the Bay Bridge Project. [HTML] [PDF]

(Chairman Liebman and Member Schaumber participated.)

Regional Emergency Medical Services, Inc. (7-RC-23217; 354 NLRB No. 20) Southfield, MI May 21, 2009. The Board reversed the hearing officer's finding that contingent emergency technician (EMT) Tara Dibler belonged in the stipulated bargaining unit and that the challenge to her ballot should be overruled.

The Employer maintained three distinct categories of EMT employees: full-time, part-time, and contingent. Contingent employees were expressly included in the Union's petition but not mentioned in the parties' unit stipulation, which expressly included only full-time and part-time EMTs. The Board, in reversing the hearing officer's finding and sustaining the challenge to Dibler's ballot, found that the language of the parties' unit stipulation reflected their clear and unambiguous intent to exclude contingent employees. The Board noted that weight should be given to the fact that the Petitioner was aware of the distinct contingent EMT classification, included that classification in the petition's unit description, but stipulated to a unit description that failed to mention contingent employees. [HTML] [PDF]

(Chairman Liebman and Member Schaumber participated.)

LIST OF DECISIONS OF ADMINISTRATIVE LAW JUDGES

McCarthy Construction Co. (Bricklayers Local 1) Walled Lake, MI, May 27, 2009. 7-CA-51474, 51647; JD-23-09, Judge Arthur J. Amchan.

Great Atlantic & Pacific Tea Co. d/b/a Waldbaum's (Food & Commercial Workers Local 338) Jericho and Carle Place, NY, May 27, 2009. 29-CA-29008, 29244; JD(NY)-19-09, Judge Eleanor McDonald.

Regency Grande Nursing & Rehabilitation Center (SEIU 1199 New Jersey Health Care) Dover, NJ, May 28, 2009. 22-CA-26231; JD(NY)-20-09, Judge Mindy E. Landow.

DPI New England (Teamsters Local 25) Canton, MA, May 29, 2009. 1-CA-44833; JD-22-09, Judge Paul Bogas.

NO ANSWER TO COMPLAINT

(In the following cases, the Board granted the General Counsel's motion for summary judgment based on the Respondent's failure to file an answer to the complaint.)

M & B Services, Inc. (Service Employees Local 100) (15-CA-18808; 354 NLRB No. 21) New Orleans, LA, May 29, 2009. [HTML] [PDF]

Mays Printing Co. Inc. (Teamsters Local 2/289-M, Graphic Communications Conference, District Council 3) (7-CA-51544; 354 NLRB No. 23) Detroit, MI, May 29, 2009. [HTML] [PDF]

Santa Cruz Skilled Nursing Center, Inc. (Service Employees, United Healthcare Workers-West) (32-CA-23911, et al.; 354 NLRB No. 25) Santa Cruz, CA, May 29, 2009. [HTML] [PDF]

NO ANSWER TO COMPLIANCE SPECIFICATION

(In the following case, the Board granted the General Counsel's motion for summary judgment based on the Respondent's failure to file an answer to the compliance specification.)

Cadence Innovation. LLC Debtor-in-Possession (Auto Workers) (9-CA-43672 (formerly 7-CA-50125), et al.; 354 NLRB No. 28) Troy, MI, May 29, 2009. [HTML] [PDF]

TEST OF CERTIFICATION

(In the following cases, the Board granted the General Counsel's motion for summary judgment on the grounds that the Respondent has not raised any representation issue that is litigable in this unfair labor practice proceeding.)

Hartzheim Dodge, Inc. d/b/a Hartzheim Dodge Hayward (Machinist Local Lodge 1546, District Lodge 190) (32-CA-24410; 354 NLRB No. 22) Hayward, CA, May 29, 2009. [HTML] [PDF]

Eagle Ray Electric Co. (Electrical Workers Local 1) (14-CA-29685; 354 NLRB No. 27) Ellisville, MO, May 29, 2009. [HTML] [PDF]

LIST OF UNPUBLISHED BOARD DECISIONS AND ORDERS IN REPRESENTATION CASES

(In the following cases, the Board denied requests for review of Decisions and Directions of Elections (D&DE) and Decisions and Orders (D&O) of Regional Directors)

Columbus Transit LLC, Mount Vernon, NY, 2-RC-23351, May 28, 2009 (Chairman Liebman and Member Schaumber)

Revera Health Systems d/b/a Montesano Health & Rehabilitation Center, Montesano, WA, 19-RC-15093, 15094, May 28, 2009 (Chairman Liebman and Member Schaumber) Howard University, Washington, DC, 5-UC-402, May 28, 2009 (Chairman Liebman and Member Schaumber) [was not timely filed]

Miscellaneous Board Decisions and Orders

ORDER [granting Petitioner's request for permission to file second request for review based on excusable neglect]

California Independent Postal Service (CIPS) and Western States Postal Service, Los Angeles, 21-RC-21110, et al., May 29, 2009

CERTIFICATION OF REPRESENTATIVE AS BONA FIDE UNDER SECTION 7(B) OF THE FAIR LABOR STANDARDS ACT OF 1938

Iosco County Central Dispatch Board, Detroit, MI, 7-WH-217, May 27, 2009
